

Michigan Indigent Defense Commission Meeting Minutes

The meeting was held in person at the Michigan Bankers Association building in Lansing, MI. Remote access via Zoom was also available for members of the public and Commissioners in compliance with the Open Meetings Act. The MIDC website and meeting notice included information for members of the public on how to participate.

October 19, 2021

Time: 9:00 am

Michigan Bankers Association
507 S Grand Ave, Lansing, MI 48933

Commission Members Participating

The following members participated in person in Lansing:

- Chair Christine Green
- Joshua Blanchard
- Tracey Brame
- Paul Bullock
- Hakim Crampton
- Andrew DeLeeuw
- David Jones
- Debra Kubitskey
- Tom McMillin
- Judge Robinson Garrett
- John Shea
- Rob VerHeulen

The following members participated remotely under exemptions from the Open Meetings Act. During roll call, these Commissioners were asked to identify the county, city, town or village and state from which they are attending, that information is reflected below in parentheses following each Commissioner's name.

- Kimberly Buddin (Novi, Oakland County, Michigan)
- Judge James Fisher (Grand Rapids, Kent County, Michigan)
- James Krizan (Lincoln Park, Wayne County, Michigan)
- Margaret McAvoy (Mount Pleasant, Isabella County, Michigan)
- William Swor (Detroit, Wayne County, Michigan)
- Gary Walker (Chocolate Township, Marquette County, Michigan)

Commission Members Absent

Cami Pendell

Staff Members Participating In Person and via Zoom

Marla McCowan, Shunkea Brown, Barbara Klimaszewski, Kelly McDoniel, Rebecca Mack, Deborah Mitchell, Susan Prentice-Sao, Chris Sadler, Jonah Siegel, Nicole Smithson, Kristen Staley, Melissa Wangler and Marcela Westrate

Chair Green called the Michigan Indigent Defense Commission (“MIDC” or “the Commission”) meeting to order at 9:03 am.

Introduction of Commission members and guests

Chair Green welcomed attendees to the meeting. No guests wished to introduce themselves.

Public Comment

The following members of the public offered comments:

- Scott Smith, on behalf of the City of Wyoming.
- Robin Dillard, on behalf of Wayne County.
- Rick Smothers
- Robert Belleman, on behalf of Saginaw County

Additions to agenda

There were no additions to the agenda. Commissioner McMillin moved that the agenda be adopted as presented. Commissioner Shea seconded. The motion carried.

Consent Agenda

Commissioner Blanchard moved that the consent agenda containing the minutes from the October 13, 2021 meeting be adopted. Commissioner VerHeulen seconded. The motion carried.

Chair Report

Chair Green indicated that she has taken the role of Chair pursuant to the Commission’s bylaws after Judge Collins was not reappointed to the Commission. She thanked Judge Collins for his work on the Commission. Chair Green welcomed Commissioner Bullock, who was appointed by the Senate Majority Leader.

Commissioner Bullock thanked Senate Majority Leader Shirkey and Governor Whitmer for the appointment to the Commission.

Chair Green will assign Commissioners Kubitskey, VerHeulen and Bullock to standing committees.

She announced the following members of the Ad Hoc Committee for Nominations: Commissioners Shea, Buddin and DeLeeuw.

Interim Executive Director’s Report

Ms. McCowan provided an overview of the meetings she has with the Department of Licensing and Regulatory Affairs and thanked Adam Sandoval and Courtney Adams for their support as she has taken the role of Interim Executive Director. She walked the Commission through the planning process for the 2023 fiscal year, which has already begun.

Staff is still working remotely much of the time. Ms. McCowan provided an overview of the work that each staff member has completed and thanked them for their work.

Commission Business

Executive Committee

Chair Green gave an overview of the Executive Committee's activities.

Executive Search Committee

Commissioner Walker gave an overview of the Committee's activities. Interviews will be held on October 29, 2021. The interviews will be recorded for all Commissioners to view. No discussions or decisions will be made at the time of the interviews. An additional meeting will be scheduled to discuss the candidates.

Strategic Planning Committee

Chair Green gave an update on the committee's activities. Staff is meeting to provide feedback on a draft document, this feedback will be reviewed by the committee at a meeting in November.

Training and Education Committee

Commissioner Brame advised the Commission that the period for commenting on the proposed education guidelines has ended. The committee will meet to finalize the guidelines and will present the final version for the Commission's approval and publication.

Michigan Jail Reform Advisory Council

The Commission's representative on the Michigan Jail Reform Advisory Council, Takura Nyamfukudza discussed the council's work. He provided information on the body's next steps and answered questions from Commissioners.

Wayne County 2018 Planning Grant adjustment request

Ms. McCowan provided an overview of the grant and its distribution. Wayne County requested permission to use the remaining funding to study vertical representation. MIDC staff recommends that the Commission deny the County's request and that any unexpended funding from the 2018 grant be transferred to the system's indigent defense fund for implementing its compliance plan.

The Commission discussed the request.

Commissioner Blanchard moved that Wayne County's request to use planning grant funding to study vertical representation be denied, and that the County transfer any unexpended funding from the 2018 grant to the system's indigent defense fund for purposes of implementing the system's approved compliance plan. Commissioner Shea seconded.

After discussion, Chair Green called for a roll call vote. The motion carried with 13 yeas (Green, Blanchard, Brame, Bullock, Crampton, DeLeeuw, Fisher, Jones, Krizan, McMillin, Shea, VerHeulen, Walker) and 5 nays (Buddin, Kubitsky, McAvoy, Robinson Garrett, Swor).

The Commission recessed for 10 minutes.

Annual 2020 Impact Report

Ms. McCowan and Ms. McDoniel presented the draft 2020 Impact Report. Commissioner Blanchard moved that the report be adopted and published. Commissioner DeLeeuw seconded. The motion carried.

FY 21 Compliance Updates

Plan Change Request – Macomb County

Macomb County requested a plan change to add an assistant public defender to its public defender office to service the 41A-2 District Court in Shelby Township. Shelby Township's compliance plan and cost analysis were previously approved by the Commission and include having the Macomb Public Defender's Office serve as the Township's Managed Assigned Counsel Coordinator. The change is being requested to the County's FY 21 plan, the Commission has not yet approved the County's FY 22 plan. MIDC staff recommends approving this request.

Commissioner Swor moved that the staff recommendation be adopted and that Macomb County's request to change its FY 21 plan be approved. Commissioner Brame seconded. The motion carried.

Budget Adjustments

Grants Director Rebecca Mack processed budget requests for the following systems:

- Alcona County
- Benzie/Manistee County
- Chippewa County
- 37th District Court – Warren Centerline
- Delta County
- Eaton County
- Livingston County
- Manistee County
- St. Clair County
- Tuscola County

A budget adjustment for Wayne County was denied.

Information about the requests was provided to Commissioners for their review.

FY 22 Compliance Planning, Submissions and Recommendations

Ad hoc committee reports

Commissioner Walker updated the Commission on the System Change Committee's meeting. The committee met on October 7, 2021 and discussed plans from the following systems:

- 47th District Court – Farmington
- Midland County
- Menominee County
- Harper Woods
- Wayne County
- Kalamazoo County
- 62A District Court – Wyoming

Chair Green updated the Commission on the Increase to Plan Committee. That committee met on October 8, 2021 and discussed plans from the following systems:

- Macomb County
- 43-1 District Court – Hazel Park
- Saginaw County
- Chippewa County
- Menominee County
- Otsego County
- Wexford/Missaukee Counties
- Lenawee County
- Wayne County

Commissioner Swor updated the Commission on the Increase to Direct Service Spending Committee's meeting. That committee met on October 8, 2021 and discussed plans from the following systems:

- 37th District Court – Warren
- 41b District Court – Clinton Township
- Macomb County
- 47th District Court – Farmington Hills
- 43-1 District Court – Hazel Park
- Midland County
- Saginaw County
- Chippewa County
- Mackinac County
- Menominee County
- Otsego County
- Wexford/Missaukee Counties
- Lenawee County
- Branch County
- Kalamazoo County
- Harper Woods
- Wayne County

Substantive Review of Resubmissions

Ms. McCowan provided an overview of the resubmitted plans from the 32a District Court in Harper Woods and in 43-1 District Court in Hazel Park. The staff recommendation is to disapprove both plans and cost analyses.

Commissioner McMillin moved that the staff recommendation be adopted and that the compliance plans and cost analyses resubmitted by the 32a District Court in Harper Woods and 43-1 District Court in Hazel Park be disapproved. Commissioner VerHeulen seconded. The motion carried.

Ms. McCowan provided an overview of the compliance plan resubmitted plan for the 62a District Court in Wyoming. The resubmission was submitted by a new entity described as “public body corporate” identified as the “Kent County Indigent Defense Authority” and not by an indigent criminal defense system. The staff recommendation is to disapprove the plan and cost analysis. The Commission discussed the submission.

Commissioner Shea moved that the staff recommendation be adopted and that the compliance plan and cost analysis resubmitted by the Kent County Indigent Defense Authority for the 62a District Court in Wyoming be disapproved and that within 60 days the Commission obtain an opinion from the Attorney General's office on the issue of whether the MIDC can contract with an authority under the Municipal Partnerships Act. Commissioner McAvoy seconded. The motion carried; Judge Fisher voted nay.

The Commission took a 20-minute recess.

Ms. McCowan provided an overview of the following plans:

- 36th District Court – City of Detroit
- 43-3 District Court –Madison Heights
- Macomb County
- Wayne County

The staff recommendation is to approve the compliance plans but disapprove the cost analyses resubmitted by the four systems listed above.

Commissioner McMillin moved that the staff recommendation be adopted and that the compliance plans resubmitted by the four systems listed above be approved but the cost analyses be disapproved. Commissioner Brame seconded. The motion carried.

Ms. McCowan provided an overview of the resubmitted cost analyses from Midland and Saginaw Counties. The compliance plans for both systems were approved at a previous meeting. The staff recommendation is to approve the cost analyses resubmitted by the counties.

Commissioner McMillin moved that the staff recommendation be adopted and that the cost analyses resubmitted by Midland and Saginaw Counties be approved. Commissioner Shea seconded. The motion carried.

Ms. McCowan provided an overview of the compliance plans and cost analyses resubmitted by the following systems:

- Menominee County
- 37th District Court – Warren and Centerline
- 44th District Court – Royal Oak
- Mackinac County
- 25th District Court – Lincoln Park
- Kalamazoo County
- Lenawee County
- Wexford and Missaukee Counties
- Chippewa County
- 47th District Court – Farmington
- Otsego County
- Branch County
- 41b District Court – Clinton Twp.

The staff recommendation is to approve the compliance plans and cost analyses resubmitted by the thirteen systems listed above.

Commissioner McMillin moved that the staff recommendation be adopted and that the compliance plans and cost analyses resubmitted by the thirteen systems listed above be approved. Commissioner Shea seconded. The motion carried.

William Nahikian requested the opportunity to provide public comment to the Commission because he was not present during the public comment at the beginning of the meeting. Chair Green allowed Mr. Nahikian to provide comment.

The Commission will meet at 9:00 am October 29, 2021 to interview candidates for the Executive Director position. The meeting will be held at the Michigan Bankers Association building in

Lansing. There will be a special meeting in November, the date will be determined. The Commission's next regular meeting is December 21, 2021.

Commissioner Shea moved that the meeting be adjourned. Judge Fisher seconded the motion. The motion carried.

The meeting adjourned at 1:13 pm.

Respectfully submitted,
Marcela Westrate